

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BERNARD MIMS,)
Plaintiff,) Case No. 18-cv-7192
v.)) Honorable Judge Steven Seeger
CITY OF CHICAGO, *et al.*,)) Magistrate Judge Jeffrey Cole
Defendants.))

DEFENDANTS' MOTION FOR ENTRY OF AN ORDER AWARDING COSTS

Defendants, Kenneth Boudreau, Richard Peck, Robert Montgomery, Daniel McNally, Ted Przepiora, Michael McDermott, Jean Romic, John Clisham (“Defendant Officers”), and the City of Chicago (“City”), (collectively “Defendants”), through their respective undersigned counsel, hereby submit this Motion for Entry of an Order Awarding Costs and in support thereof state:

BACKGROUND

On March 12, 2024, this Court entered judgment against Plaintiff and in favor of Defendants on all claims. Dkts. 211, 212. Defendants’ Bill of Costs and Motion in Support of its Bill of Costs was then timely filed on April 16, 2024. *See* Dkts. 217, 220, 221.

Meanwhile, on April 9, 2024, Plaintiff filed his notice of appeal. Dkts. 213, 215. The Seventh Circuit Court of Appeals remanded the matter to the district court to enter a full and complete judgment. *See* Dkt. 222. This Court then entered an Amended Judgment on May 8, 2024, that again entered judgment in favor of all Defendants on all claims against Plaintiff. Dkt. 223. Defendants, out of an abundance of caution, submitted an Amended Memorandum in Support of their Bill of Costs on May 22, 2024, based on the May 8, 2024 Amended Judgment. Dkt. 224.

This Court then ordered Plaintiff to respond to Defendants' bill of costs by June 21, 2024. Dkt. 225. Plaintiff failed to respond by the deadline set by this Court and has offered no opposition to Defendants' request for costs.

ARGUMENT

Federal Rule of Civil Procedure 54(d) provides that "costs – other than attorney's fees – should be allowed to the prevailing party." Fed. R. Civ. P. 54(d)(1). Rule 54 creates a strong presumption that the prevailing party will recover costs. *See Park v. City of Chicago*, 297 F. 3d 606, 617 (7th Cir. 2002). Furthermore, "the losing party bears the burden of an affirmative showing that taxed costs are not appropriate." *See Beamon v. Marshall & Ilsley Trust Co.*, 411 F. 3d 854, 864 (7th Cir. 2005). A district court's discretion under Rule 54 is "narrowly confined" in that it "must award costs unless it states good reasons for denying them." *Weeks v. Samsung Heavy Industries Co., Ltd.*, 126 F. 3d 926, 945 (7th Cir. 1997).

As Defendants' Bill of Costs and supporting memorandum makes clear, the costs sought are allowed, reasonable and necessary under the applicable rules and therefore must be granted. *See e.g., Nance v. City of Elgin*, No. 06 CV 6608, 2011 WL 1750885, at *1 (N.D. Ill. May 3, 2011) (Upon receiving Elgin's bill of costs, the court gave plaintiffs an opportunity to respond, but they never did. Based on the plaintiffs' failure to object, the court reviewed the costs for reasonableness and awarded defendants the full \$59,055.42 in costs.); *See also Grinnell Mutual Reinsurance Co. v. S.B.C. Waste Solutions, Inc.*, No. 18 C 4922, 2024 WL 245260, at *2 (N.D. Ill. Jan. 23, 2024) ("Because Defendants have not filed any Motion that they are unable to bear the \$11,584.74.00 Plaintiff seeks or otherwise pled that the taxable costs are not appropriate, the Court must grant Plaintiff's Motion for Amended Bill of Costs").

Accordingly, Defendants here request that this Court award Defendants' costs in the amount of \$25,493.27 in accordance with Federal Rule of Civil Procedure 54(d), Northern District of Illinois Local Rule 54.1, and 28 U.S.C. 1920 as Defendants' Bill of Costs and supporting Memorandum establishes that these costs were reasonable and necessary in the defense of this lawsuit.

WHEREFORE, Defendants, Kenneth Boudreau, Richard Peck, Robert Montgomery, Daniel McNally, Ted Przepiora, Michael McDermott, Jean Romic, John Clisham, and the City of Chicago, in accordance with Federal Rule of Civil Procedure 54(d), Local Rule 54.1, and 28 USC §1920, seek entry of an order granting their costs incurred in the defense of Plaintiff's unsuccessful federal lawsuit in the amount \$25,493.27, to be taxed by the Clerk of Court against Plaintiff.

Date: July 15, 2024

Respectfully submitted,

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